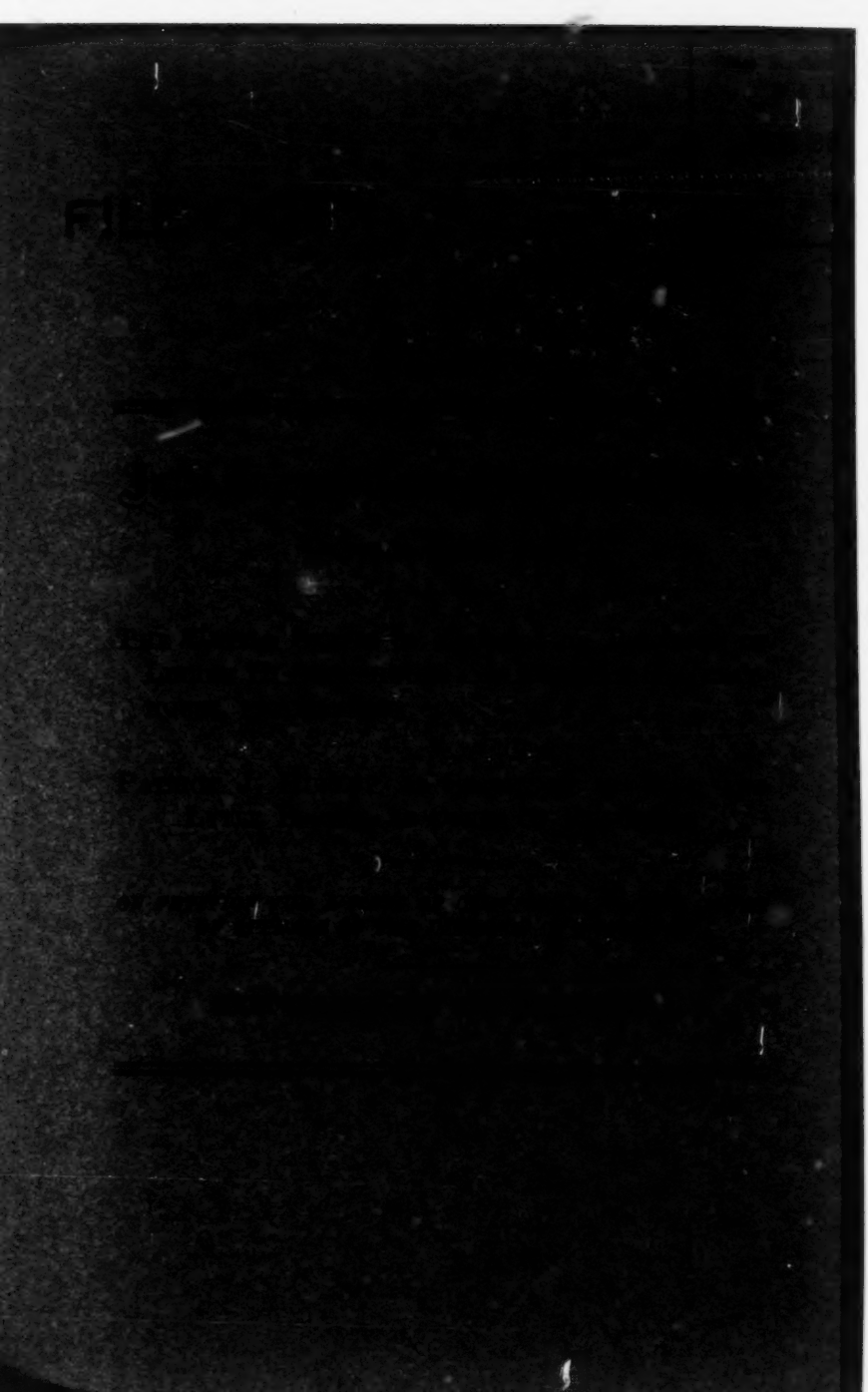

In the Supreme Court of the United States

OCTOBER TERM, 1932

No. 677

THE UNITED STATES OF AMERICA ON RELATION OF Lucien H. Greathouse and Rebekah S. Greathouse, petitioners

v.

PATRICK J. HURLEY, AS SECRETARY OF WAR, AND Lytle Brown, as Chief of Engineers

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ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

MEMORANDUM FOR THE RESPONDENTS

The respondents do not oppose the granting of a writ of certiorari in this case.

The primary questions involved are (1) whether the Secretary of War in his discretion may deny a permit under the River and Harbors Act (Act of March 8, 1899, c. 425, 30 Stat. 1121, 1151) to build a wharf in the Potomac River, not on the ground that the structure will interfere with navigation but because it will hinder another public use of the

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land not connected with navigation, and (2) whether the nature of the interest of the Federal Government in the bed of the Potomac River to high-water mark on the Virginia side is that of a proprietor or only that of a trustee for the public in the interest of navigation. Both of these questions are important and merit review by this Court.

Certain other questions are also involved, including the question whether mandamus may issue, although title to the upland area is in dispute, whether mandamus may be had to enforce a private contract and to establish rights which are conditional and inchoate, and whether the present suit has been brought by the proper parties. These questions may also affect the right of the relators to the relief sought, and reference is made to them here so that they may be presented more fully if this Court grants the writ of certiorari prayed for.

The problems involved in this controversy affecting as they do the plans for development of extensive public improvements, are of importance and should be definitely settled in the interest of the Government and of a large class of property owners who may be similarly situated to the petitioner. Therefore, we do not oppose the granting of the writ.

THOMAS D. THACHER,
Solicitor General.

FEBRUARY, 1933.

U. S. GOVERNMENT PRINTING OFFICE: 1933